

The Preliminary Hearing Order of the Administrative Law Judge should be affirmed. The Appeals Board agrees with the analysis of the Administrative Law Judge as set forth in the transcript of the Preliminary Hearing held on September 5, 1995. The Appeals Board agrees that the history taken by Dr. Ernest R. Schlachter appears to be the most accurate with the histories recorded by Doctors Lucas and Mills being inaccurate or incomplete. The Administrative Law Judge had the opportunity to observe claimant testify

and assess her demeanor and credibility. The Appeals Board, therefore, gives some deference to her findings in that regard.

Although the respondent raised the issue of timely notice in its application for review and mentioned the issue in its brief, the Appeals Board declines to address the issue because it was not raised before the Administrative Law Judge.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Shannon S. Krysl, entered in this proceeding on September 5, 1995, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of January 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert R. Lee, Wichita, Kansas
Larry Shoaf, Wichita, Kansas
Shannon S. Krysl, Administrative Law Judge
Philip S. Harness, Director